

Remarks

The Examiner's September 28, 2007 non final Office Action has been carefully considered. As explained below, none of claims 15 and 20-22 are anticipated by Funck et al. US published application 2003/0097339.

Claim 15 requires, in-part:

"establishing two different electronic communication paths whereby a first path is established, and using information obtained thereby establish an address to open a second path"

Neither Fig. 1 nor Fig. 4 of Funck et al. disclose more than a singular path between either computer 42 (Fig. 1) or telephone station set 86 (Fig. 4). The paragraphs noted in section 5 of the Office Action in support of the rejection of claim 15 simply do not address this deficiency. Paragraph 21, quoted below, only describes a singular communication path using a particular voice over internet technology.

"VoIP, as used in the telephone industry, describes a set of facilities for managing the delivery of voice information using the Internet Protocol (IP). In general, this means transmitting digital voice information via discrete packets rather than by the traditional circuit-committed protocols utilized in the PSTN 18. The PSTN 18 provides users with a dedicated end-to-end circuit connections for the duration of each telephone call. Circuits are reserved between the originating switch, tandem switches, and the terminating switch based on the telephone number dialed by the calling party. In the event of high utilization or network congestion, the network simply blocks (busy signal) any new calls being placed until the circuits become available. This method of congestion control is ideal for audio transmissions because it does not degrade voice quality calls that have already been established."

Similarly, noted lines 1-4 of paragraph 23 fail to address the deficiencies of either Figs. 1 or 4 of Funck et al. That text only states:

"Referring to FIGS. 1 and 3, the customer computer 42 is adapted to handle communication with the agent 14 of the ACD 16, and either the customer computer or the ACD may initiate the telephone call. "

None of paragraph 26, lines 1-5 addresses "establishing two different electronic communications paths" (Claim 1)

Those lines from paragraph 26 merely state:

"In operation, to facilitate a marketing transaction, such as a customer purchase, the customer data 12 is transmitted (or caused to be transmitted) by the customer data process 64 to the ACD 16. This saves the telemarketing agent 14 or vendor substantial time, effort and"

Further, none of paragraphs 29, 30 and 35 address the above noted limitation from claim 15. Hence, for at least all of the above reasons claim 15 is not anticipated by Funck et al. Additional reasons follow.

Claim 15 includes the following limitation not met by Funck et al.:

"verifying the identity of a party who has established the first path"

Paragraph 21 noted in the Office Action in connection with the rejection of claim 15 was quoted above and includes no disclosure of the above noted limitation.

Paragraph 23 lines 1-4 of Funck et al. was quoted above and includes no disclosure of the above noted limitation. Paragraph 26 lines 1-5 of Funck et al. was quoted above and includes no disclosure of the above noted limitation. The fact that "customer data 12 is transmitted (or caused to be transmitted) by the customer processor 64 to the ACD" paragraph 26 ll 2-5 (does not meet the above quoted limitation.

Paragraph 29 of Funck et al. does not meet the above noted limitation for the same reasons that the above noted text from paragraph 26 does not.

The reference in paragraph 30:

"In another specific embodiment the ACD 16 may send a code or predetermined signal to the customer computer 42 which if verified by the customer computer, causes the customer data 12 to be automatically and transparently sent to the ACD 16."

also, fails to meet the above quoted limitation for the reasons set forth above.

Numbered paragraph 35 of Funck et al. merely provides a brief description of the block diagram of Fig. 4 thereof and does not address or disclose the above limitation of Funck claim 15. Hence, for at least the above reasons claim 15 is not anticipated by Funck et al.

Claim 15 also includes the following limitation which is completely unmet by Funck et al.:

"presenting a requested document and a unique document identifier to the party via the first path and, in response thereto, audibly receiving from the party, via the second path, the unique document identifier." (Claim 15)

The above limitation is completely unaddressed by the disclosure of Funck et al. For example, paragraph 21 quoted above does not have any disclosure whatsoever which relates to the above quoted limitation from claim 15. The same is true for paragraph 23 lines 1-4 and paragraph 26 lines 1-5 all of which were quoted above. Further, none of paragraphs 29, 30 or 35 in anyway address "presenting a requested document and a unique document identifier to the party by the first path and, in response thereto, audibly receiving from the party, via the second path, the unique document identifier." (pending claim 15).

Anticipation requires that each limitation of the claim be found in a prior art document exactly as claimed. Otherwise there is no anticipation. As discussed

above, numerous limitations from claim 15 are completely unmet by Funck et al. It is requested that the rejection of claim 15 as anticipated be withdrawn.

Claim 20 has been rejected as anticipated by Funck et al. As explained below, claim 20 is clearly not anticipated by Funck et al.

Claim 20 depends on claim 15 which as discussed above is not anticipated by Funck et al. For at least the above reasons that claim 15 is not anticipated, so claim 20 is not anticipated by Funck et al. Additionally, claim 20 includes the following limitation not met by Funck et al.:

"interrogating at least one-third-party database to evaluate the trustworthiness of the address." (pending claim 20)

Paragraph 21 cited in support of the rejection of claim 20, which paragraph was quoted above, is on its face absolutely silent relative to the limitation of claim 20. Paragraph 25, quoted below, describes incorporating customer data 12 into the customer's data processor 64, all of which are under direct customer control. As stated in paragraph 25:

"The customer data processor 64 receives, stores and processes the customer data 12, such as customer name, customer address, customer telephone number, credit card number, customer purchase history, customer complaint history, preferred agent and customer preferences. Some or all of this data, and other data not specifically enumerated above, may be stored by the customer data processor 64. Initially, the customer data 12 is entered into the customer data processor 64 by the customer. In the illustrated embodiment, the customer may enter the customer data 12 via a standard input device, such as a keyboard 44. The customer data 12 is retained in memory, such as on the hard disk 50 as a file or a database 51 of the customer computer 42 for subsequent transmission to the ACD 16."

The above quoted paragraph 25 is completely silent relative to:

"interrogating at least one-third-party database to evaluate the trustworthiness of the address." (Pending claim 20)

Similar comments apply relative to claims 21 and 22 were rejected as anticipated by Funck et al. Claim 21 includes the following limitation which is clearly not addressed in paragraph 25 of Funck et al.:

"evaluating the address with respect to selected mail delivery information associated with the party." (pending claim 21)

Claim 22 includes the following limitation which is not addressed at all by paragraph 25, quoted above, of Funck et al.:

"carrying out a geographical correlation between the address and other information associated with the party." (pending claim 22)

Thus, for at least the above reasons none of pending claims 15, 20-22 are anticipated by Funck et al.

Both claims 18 and 19 have been rejected as obvious and unpatentable over Funck et al. As explained below, neither of those rejections is proper and they should be withdrawn.

Obviousness can only be decided when considering the claim as a whole. As discussed above, substantial limitations of claim 15 are completely missing and not addressed in Funck et al. The Office Action admits that "the teachings of Funck et al. fail to disclose of creating a digital signature associated with the presented document" (page 4, section 7 office action). The Office Action addresses this silence by referring to official notice that the use of digital signature associated with documents is notoriously well-known. (page 4, section 7 office action).

The use of official notice fails to address all of the other limitations of claim 18 which, as discussed above, are completely unmet.

The rejection of claim 18 reflects improper hindsight reconstruction based the teachings of the present application. Funck et al. is completely silent as to almost all

if not all of the limitations of claim 18. The rejection of claim 18 in section 7 of the Office Action fails to address why one of ordinary skill in the art would modify Funck et al. so as to make claim 18, considering all the limitations therein obvious. A proper *prima facie* case of obviousness cannot be established in view of silence and numerous missing limitations of the rejected claim which are not addressed at all in Funck et al. For at least the above reasons claim 18 is not rendered obvious by the disclosure of Funck et al.

Further, neither paragraph 21 nor paragraph 30 of Funck et al. address the limitations of rejected claim 19 in a way so as to establish a proper *prima facie* case of obviousness. Neither paragraph 21, which was quoted above, nor paragraph 30 quoted below disclose or address:

"comparing a current audio responses from the party with previously received responses from the party". (pending claim 19)

Paragraph 30 of Funck et al. merely states:

"In another specific embodiment, the ACD 16 may send a code or predetermined signal to the customer computer 42, which if verified by the customer computer, causes the customer data 12 to be automatically and transparently sent to the ACD 16. Of course, the customer data 12 is encrypted prior to transmission. The data transmission may be performed prior to establishing VoIP voice communication between the customer and the agent 14, during the voice communication, or after the voice communication has terminated. In this embodiment, the ACD 16 may further transmit a vendor identification code or other vendor identifier to the customer computer 42, which may provide the customer with the identity of the particular vendor to which the transaction is directed. Depending upon the vendor with whom the customer is dealing, the customer may desire differing levels of security. Alternately, the customer may not

Appl. No 10/714,314
Response C Responsive to
Office Action mailed Sept. 28, 2007

want to have any involvement with a particular vendor, and in such a case, may not transmit the customer data 12 to the ACD 16."

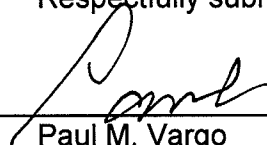
As can be seen from the above wording from paragraph 30, the quoted limitation of claim 19 is not addressed at all. The Office Action does not provide any justification as to why one of ordinary skill in the art would modify Funck et al. so as to make claim 19 obvious. This is again a case of improper hindsight reconstruction and the rejection of claim 19 should be withdrawn.

For at least the above reasons the pending claims are in condition for allowance and allowance of the application is respectfully requested.

Respectfully submitted,

Dated: December 21, 2007

By



Paul M. Vargo
Reg. No. 29,116
WELSH & KATZ, LTD.
120 South Riverside Plaza, 22nd Floor
Chicago, Illinois 60606
Phone: (312) 655-1500
Fax: (312) 655-1501